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3001 WEST BIG BEAVER ROAD
SUITE 624
TROY MI 48084-3107

SEP 28 2007

In re Application of:

Werth

Application No.: 10/829,497

Filed: April 22, 2004

Title: VALVE FOR A REFRIGERATOR WATER
DISPENSER

DECISION ON PROTEST UNDER
37 C.F.R. § 1.291

This is in response to the protest under 37 C.F.R. § 1.291 filed on January 31, 2005.

37 C.F.R. § 1.291(a) and (b) state:

(a) A protest may be filed by a member of the public against a pending application, and it will be matched with the application file if it adequately identifies the patent application. A protest submitted within the time frame of paragraph (b) of this section, which is not matched in a timely manner to permit review by the examiner during prosecution, due to inadequate identification, may not be entered and may be returned to the protestor where practical, or, if return is not practical, discarded.

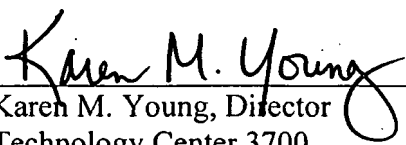
(b) The protest will be entered into the record of the application if, in addition to complying with paragraph (c) of this section, the protest has been served upon the applicant in accordance with § 1.248, or filed with the Office in duplicate in the event service is not possible; and, except for paragraph (b)(1) of this section, the protest was filed prior to the date the application was published under § 1.211, or a notice of allowance under § 1.311 was mailed, whichever occurs first:

(1) If a protest is accompanied by the written consent of the applicant, the protest will be considered if the protest is matched with the application in time to permit review during prosecution.

(2) A statement must accompany a protest that it is the first protest submitted in the application by the real party in interest who is submitting the protest; or the protest must comply with paragraph (c)(5) of this section. This section does not apply to the first protest filed in an application.

While the protest was served on the applicant, it was not submitted before the application was published. This application was published on October 28, 2004 as publication number US2004/0211790. Additionally, upon consideration for entry into the file, the case has already been patented, and notice of allowance has been mailed. Accordingly, the protest papers will not be entered into the application file and will be discarded per 37 C.F.R. § 1.291(g).

Any inquiry regarding this decision should be directed to Colleen P. Cooke, Special Program Examiner, at (571) 272-1170.


Karen M. Young, Director
Technology Center 3700